



House of Representatives

General Assembly

File No. 616

January Session, 2011

Substitute House Bill No. 6438

House of Representatives, April 21, 2011

The Committee on Judiciary reported through REP. FOX of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING PROBATE COURT OPERATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-8a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2011*):

3 (a) For the purposes of this section, "children's matters" means: (1)
4 Guardianship matters under sections 45a-603 to 45a-625, inclusive; (2)
5 termination of parental rights matters under sections 45a-706 to 45a-
6 719, inclusive; (3) adoption matters under sections 45a-724 to 45a-733,
7 inclusive, and sections 45a-736 and 45a-737; (4) claims for paternity
8 under section 46b-172a; (5) emancipation of minor matters under
9 sections 46b-150 to 46b-150e, inclusive; and (6) voluntary admission
10 matters under section 17a-11.

11 [(b) The Probate Court Administrator shall, within available
12 resources, establish a regional children's probate court in a region that
13 shall consist of the probate districts of New Haven, Branford, East
14 Haven, Hamden, Milford, North Branford, North Haven, Orange,

15 West Haven and Woodbridge. In establishing such court, the Probate
16 Court Administrator shall consult with the probate judges of such
17 districts, each of whom may participate on a voluntary basis.]

18 [(c)] (b) [In addition to the court established under subsection (b) of
19 this section, the] The Probate Court Administrator may establish [six
20 additional] seven regional children's probate courts in regions
21 designated by the Probate Court Administrator. In establishing such
22 courts, the Probate Court Administrator shall consult with the probate
23 judges of the districts located in each designated region, each of whom
24 may participate on a voluntary basis.

25 [(d)] (c) The Probate Court Administrator may establish a regional
26 children's probate court under this section in (1) any existing probate
27 court facility within a district located in a region, or (2) a separate
28 facility located in a region as may be designated by the Probate Court
29 Administrator. Each regional children's probate court shall be
30 established and operated with the advice of the participating probate
31 judges of such districts and the administrative judge appointed under
32 subsection [(g)] (f) of this section. Such participating probate judges
33 and administrative judge shall serve as the judges of the regional
34 children's probate court, except as provided in subdivision (1) of
35 subsection [(g)] (f) of this section. Such judges shall hear and determine
36 all children's matters as may come before them on a docket separate
37 from other probate matters.

38 [(e)] (d) (1) For the purposes of this section, the Probate Court
39 Administrator may, subject to the provisions of section 45a-84, expend
40 from the Probate Court Administration Fund established under section
41 45a-82 such amounts as the Probate Court Administrator may deem
42 reasonable and necessary for the establishment, improvement,
43 maintenance and operations of court facilities located in each such
44 designated region.

45 (2) Nothing in this section shall be construed to relieve any town of
46 its obligation to provide and maintain court facilities pursuant to
47 section 45a-8.

48 [(f)] (e) The Probate Court Administrator may, subject to the
49 provisions of section 45a-84, expend moneys from the Probate Court
50 Administration Fund to pay for necessary improvements of a facility
51 designated as a regional children's probate court under this section, to
52 pay operating expenses of a regional children's probate court and to
53 reimburse participating towns or cities for any costs of leasing office
54 space for a regional children's probate court, and any necessary
55 improvements thereto, and for expenses under subsection [(g)] (f) of
56 this section.

57 [(g)] (f) (1) The Probate Court Administrator, with the advice of the
58 participating probate judges of the districts located in the designated
59 region, shall appoint an administrative judge for each regional
60 children's probate court. The administrative judge shall be a probate
61 judge at the time of such appointment. If the administrative judge
62 ceases to serve as a probate judge after such appointment, the
63 administrative judge may continue to serve as administrative judge at
64 the pleasure of the Probate Court Administrator, but shall not have the
65 powers granted to an elected probate judge and shall not hear and
66 determine children's matters before such regional children's probate
67 court. Subject to the approval of the Chief Court Administrator, the
68 Probate Court Administrator shall fix the compensation of the
69 administrative judge and such compensation shall be paid from the
70 Probate Court Administration Fund. Such compensation, together with
71 the administrative judge's compensation as a probate judge of the
72 district to which he or she was elected, shall not exceed the
73 compensation provided for a judge of probate under subdivision (4) of
74 subsection (a) of section 45a-95a. The administrative judge shall have
75 such benefits as may inure to him or her as a probate judge and shall
76 receive no additional benefits, except for compensation provided
77 under this section.

78 (2) Each administrative judge shall be responsible for the
79 management of cases, coordination of social services, staff, financial
80 management and record keeping for the regional children's probate
81 court for which the administrative judge is appointed. The

82 administrative judge may, with the approval of the Probate Court
83 Administrator, purchase furniture, office supplies, computers and
84 other equipment and contract for services that the administrative judge
85 may deem necessary or advisable for the expeditious conduct of the
86 business of the regional children's probate court. Such expenses shall
87 be paid for pursuant to section 45a-8. If a separate facility for a regional
88 children's probate court is established pursuant to subdivision (2) of
89 subsection [(d)] (c) of this section, the participating town or city shall
90 be reimbursed for such expenses from the Probate Court
91 Administration Fund upon presentation of vouchers to the Probate
92 Court Administrator.

93 [(h)] (g) Each administrative judge for a regional children's probate
94 court may, with the approval of the Probate Court Administrator,
95 employ such persons as may be required for the efficient operation of
96 the regional children's probate court. Such employees shall be
97 employees of the regional children's probate court and shall be entitled
98 to the benefits of probate court employees under this chapter. Such
99 employees shall not be deemed to be state employees.

100 [(i)] (h) Any probate court within a region designated under
101 subsection (b) [or (c)] of this section may transfer children's matters to
102 the regional children's probate court for such region. Any regional
103 children's probate court may accept transfers and referrals of children's
104 matters from probate courts within its region.

105 [(j)] (i) Each regional children's probate court shall be considered a
106 probate court for the purposes of this chapter.

107 [(k)] (j) The Probate Court Administrator shall establish policies and
108 procedures to implement the provisions of this section. [On or before
109 January 3, 2007, the Probate Court Administrator shall submit a report
110 concerning the operation and effectiveness of the regional children's
111 probate courts established under this section to the joint standing
112 committee of the General Assembly having cognizance of matters
113 relating to the judiciary, in accordance with section 11-4a.]

114 Sec. 2. Subdivision (9) of section 31-275 of the general statutes is
115 repealed and the following is substituted in lieu thereof (*Effective July*
116 *1, 2011*):

117 (9) (A) "Employee" means any person who:

118 (i) Has entered into or works under any contract of service or
119 apprenticeship with an employer, whether the contract contemplated
120 the performance of duties within or without the state;

121 (ii) Is a sole proprietor or business partner who accepts the
122 provisions of this chapter in accordance with subdivision (10) of this
123 section;

124 (iii) Is elected to serve as a member of the General Assembly of this
125 state;

126 (iv) Is a salaried officer or paid member of any police department or
127 fire department;

128 (v) Is a volunteer police officer, whether the officer is designated as
129 special or auxiliary, upon vote of the legislative body of the town, city
130 or borough in which the officer serves;

131 (vi) Is an elected or appointed official or agent of any town, city or
132 borough in the state, upon vote of the proper authority of the town,
133 city or borough, including the elected or appointed official or agent,
134 irrespective of the manner in which he or she is appointed or
135 employed. Nothing in this subdivision shall be construed as affecting
136 any existing rights as to pensions which such persons or their
137 dependents had on July 1, 1927, or as preventing any existing custom
138 of paying the full salary of any such person during disability due to
139 injury arising out of and in the course of his or her employment; [or]

140 (vii) Is an officer or enlisted person of the National Guard or other
141 armed forces of the state called to active duty by the Governor while
142 performing his or her active duty service; or

143 (viii) Is elected to serve as a probate judge for a probate district
144 established in section 45a-2.

145 (B) "Employee" shall not be construed to include:

146 (i) Any person to whom articles or material are given to be treated
147 in any way on premises not under the control or management of the
148 person who gave them out;

149 (ii) One whose employment is of a casual nature and who is
150 employed otherwise than for the purposes of the employer's trade or
151 business;

152 (iii) A member of the employer's family dwelling in his house; but,
153 if, in any contract of insurance, the wages or salary of a member of the
154 employer's family dwelling in his house is included in the payroll on
155 which the premium is based, then that person shall, if he sustains an
156 injury arising out of and in the course of his employment, be deemed
157 an employee and compensated in accordance with the provisions of
158 this chapter;

159 (iv) Any person engaged in any type of service in or about a private
160 dwelling provided he is not regularly employed by the owner or
161 occupier over twenty-six hours per week;

162 (v) An employee of a corporation who is a corporate officer and
163 who elects to be excluded from coverage under this chapter by notice
164 in writing to his employer and to the commissioner; or

165 (vi) Any person who is not a resident of this state but is injured in
166 this state during the course of his employment, unless such person (I)
167 works for an employer who has a place of employment or a business
168 facility located in this state at which such person spends at least fifty
169 per cent of his employment time, or (II) works for an employer
170 pursuant to an employment contract to be performed primarily in this
171 state.

172 Sec. 3. Section 45a-109 of the general statutes is repealed and the

173 following is substituted in lieu thereof (*Effective October 1, 2011*):

174 In addition to the basic charges and costs specified in sections 45a-
175 106 to 45a-108, inclusive, the following expenses shall be payable to the
176 courts of probate: (1) For recording each page or fraction thereof after
177 the first five pages of any one document, three dollars; (2) for each
178 notice in excess of two with respect to any hearing or continued
179 hearing, two dollars; (3) for any expenses incurred by the court of
180 probate for newspaper publication of notices, certified or registered
181 mailing of notices, or for service of process or notice, the actual amount
182 of the expenses so incurred; (4) for providing copies of any document
183 from a file in the court of any matter within the jurisdiction of the
184 court, five dollars for a copy of any such document up to five pages in
185 length and one dollar per copy for each additional page or fractional
186 part thereof as the case may be, provided there shall be furnished
187 without charge to the fiduciary or if none, to the petitioner with
188 respect to any probate matter one uncertified copy of each decree,
189 certificate or other court order setting forth the action of the court on
190 any proceeding in such matter; (5) for certifying copies of any
191 document from a file in the court of any matter before the court, five
192 dollars per each copy certified for the first two pages of a document,
193 and two dollars for each copy certified for each page after the second
194 page of such document, provided no charge shall be made for any
195 copy certified or otherwise that the court is required by statute to
196 make; [and] (6) for retrieval of a file not located on the premises of the
197 court, the actual cost or ten dollars, whichever is greater; and (7) for
198 copying probate records through the use of a hand-held scanner, as
199 defined in section 1-212, twenty dollars per day.

200 Sec. 4. Subsection (a) of section 45a-273 of the general statutes is
201 repealed and the following is substituted in lieu thereof (*Effective July*
202 *1, 2011*):

203 (a) The surviving spouse of any person who dies, or if there is no
204 surviving spouse, any of the next of kin of such decedent, or if there is
205 no next of kin or if such surviving spouse or next of kin refuses, then

206 any suitable person whom the court deems to have a sufficient interest
207 may, in lieu of filing an application for admission of a will to probate
208 or letters of administration, file an affidavit or statement signed under
209 penalty of false statement in the court of probate in the district in
210 which the decedent resided, stating, if such is the case, that all debts of
211 the decedent have been paid in the manner prescribed by section [45a-
212 392] 45a-365, at least to the extent of the fair value of all of the
213 decedent's assets, when (1) such decedent leaves property of the type
214 described in subsection (b) of this section, and (2) the aggregate value
215 of any such property as described in subsection (b) of this section does
216 not exceed the sum of forty thousand dollars. In addition, such
217 affidavit or statement shall state that the decedent either did, or did
218 not, receive aid or care from the state, which shall also include aid or
219 care from the Department of Veterans' Affairs, whichever is true.

220 Sec. 5. Subsection (e) of section 45a-273 of the general statutes is
221 repealed and the following is substituted in lieu thereof (*Effective July*
222 *1, 2011*):

223 (e) If an affidavit is filed under subsection (a) of this section in lieu
224 of an application for admission of a will to probate or letters of
225 administration and the fair value of the property of the decedent
226 exceeds the total amount of claims, including any amounts allowed to
227 the family under section 45a-320, the court shall proceed as follows: (1)
228 If no purported last will and testament is found, the court shall order
229 distribution of the excess in accordance with the laws of intestate
230 succession; (2) if the decedent left a duly executed last will and
231 testament and the will provides for a distribution which is the same as
232 that under the laws of intestate succession, the court shall order
233 distribution of the excess in accordance with the laws of intestate
234 succession; (3) if the decedent left a duly executed last will and
235 testament and the will provides for a distribution different from that
236 under the laws of intestate succession, and the heirs at law of such
237 decedent sign a written waiver of their right to contest the will, the
238 court shall order the excess to be paid in accordance with the terms of
239 the will; (4) if the will directs a distribution different from the laws of

240 intestate succession, and the heirs at law do not waive their right to
241 contest the admission of such will, the will shall be offered for probate
242 in accordance with section 45a-286. In such case, the court may issue a
243 decree under this section only if the persons entitled to take the
244 bequests under the will consent, in writing, to the distribution of the
245 bequests in accordance with the laws of intestate succession. If the
246 claims against the estate exceed the value of the property of such
247 decedent, the claims shall be paid in accordance with the priorities set
248 forth in section [45a-392] 45a-365. As used in this subsection, the term
249 "will" includes any duly executed codicil thereto.

250 Sec. 6. Section 45a-274 of the general statutes is repealed and the
251 following is substituted in lieu thereof (*Effective July 1, 2011*):

252 When any decedent is entitled to payment of medical benefits,
253 federal or state, or insurance or health benefits or proceeds, or other
254 intangible personal property owned by or payable to [him] the
255 decedent or to [his] the decedent's estate in a sum not exceeding one
256 thousand dollars, the judge of probate for the district within which
257 such decedent resided may name an administrator, ex parte, for the
258 purpose of enabling distribution to the surviving spouse or, if there is
259 no surviving spouse, to the next of kin of such decedent or to the
260 funeral director or physician, as the case may be, upon evidence
261 satisfactory to him that all debts have been paid or provided for as
262 prescribed by section [45a-392] 45a-365.

263 Sec. 7. Subsection (b) of section 45a-597 of the general statutes is
264 repealed and the following is substituted in lieu thereof (*Effective July*
265 *1, 2011*):

266 (b) If the estate is less than sufficient to pay all such expenses in full,
267 the provisions of section [45a-392] 45a-365 as to order of payment shall
268 govern.

269 Sec. 8. Section 45a-754 of the general statutes is repealed and the
270 following is substituted in lieu thereof (*Effective October 1, 2011*):

271 (a) [The state shall furnish each court of probate with an index and a
272 book in which shall be recorded only applications, agreements, orders,
273 waivers, affidavits and returns of notice of hearing, appointments of
274 guardians ad litem and decrees in] All records of cases related to
275 termination of parental rights, removal of a parent as guardian,
276 appointment of a statutory parent, [and] adoption matters, temporary
277 guardianship and emancipation of a minor shall be confidential and
278 shall not be open to inspection by or disclosed to any third party,
279 except that (1) such records shall be available to (A) the parties in any
280 such case and their counsel; (B) the Department of Children and
281 Families; (C) any licensed child-placing agency involved in any such
282 case; (D) any judge or employee of a court of this state who, in the
283 performance of his or her duties, requires access to such records; (E)
284 the office of the Probate Court Administrator; and (F) courts of other
285 states under the provisions of sections 46b-115a to 46b-115gg,
286 inclusive; and (2) access to and disclosure of adoption records shall be
287 in accordance with subsection (b) of this section.

288 [(b) The probate court shall also maintain locked files which shall be
289 used for the filing of sealed envelopes, each of which shall contain all
290 the papers filed in court regarding the removal of a parent as guardian,
291 petitions for termination of parental rights, appointment of statutory
292 parent and adoption.

293 (c) In the case of an application for the removal of a parent as
294 guardian, a petition for termination of parental rights, an application
295 for a statutory parent or an application for adoption, the envelopes
296 shall be marked only with the words "Adoption Matter" and the names
297 of the adopting parents and the name borne by the minor before the
298 adoption. In the case of a removal of parent as guardian or in the case
299 of a termination of parental rights matter which does not result in an
300 adoption matter, the envelopes shall be marked only with the words
301 "Removal Of Parent As Guardian" or "Termination Of Parental Rights
302 Matter" and the name of the minor.]

303 [(d)] (b) Access to [such] adoption records shall be in accordance

304 with sections 45a-743 to 45a-753, inclusive. The records may also be
305 disclosed upon order of the judge of probate to a petitioner who
306 requires such information for the health or medical treatment of any
307 adopted person. If such information is so required and is not within
308 the records, the biological parent or parents or blood relatives may be
309 contacted in accordance with the procedures in [said] section 45a-753.

310 [(e) Any person who discloses any information contained in the
311 indexes, record books and papers, except as provided in sections 45a-
312 706 to 45a-709, inclusive, 45a-715 to 45a-718, inclusive, 45a-724 to 45a-
313 737, inclusive, and 45a-743 to 45a-757, inclusive, shall be fined not
314 more than five hundred dollars or imprisoned not more than six
315 months or both.]

316 Sec. 9. Section 45a-765 of the general statutes is repealed and the
317 following is substituted in lieu thereof (*Effective October 1, 2011*):

318 All proceedings, documents, correspondence and findings by the
319 board shall be returned to the probate court initiating the application
320 and shall be confidential [and placed in sealed envelopes] as required
321 by section 45a-754, as amended by this act.

322 Sec. 10. (NEW) (*Effective October 1, 2011*) Any person seeking online
323 access to any data processing system operated by the Office of the
324 Probate Court Administrator, or seeking, in any other medium,
325 information stored in such data processing system, may be required to
326 pay to the Office of the Probate Court Administrator an amount, as
327 established in a fee schedule determined by the Probate Court
328 Administrator, for deposit in the Probate Court Administration Fund
329 established in section 45a-82 of the general statutes. Such fee schedule
330 may include reasonable charges for personal services, fringe benefits,
331 supplies and any other expenses related to maintaining, improving
332 and providing such data processing services including, but not limited
333 to, program modifications, training expenses, central processor user
334 time and the rental and maintenance of equipment.

335 Sec. 11. Subsection (a) of section 45a-186 of the general statutes is

336 repealed and the following is substituted in lieu thereof (*Effective*
337 *October 1, 2011*):

338 (a) [Any] Except as provided in sections 45a-187, as amended by this
339 act, and 45a-188, as amended by this act, any person aggrieved by any
340 order, denial or decree of a court of probate in any matter, unless
341 otherwise specially provided by law, may, not later than forty-five
342 days after the mailing of an order, denial or decree for a matter heard
343 under any provision of section 45a-593, 45a-594, 45a-595 or 45a-597, as
344 amended by this act, sections 45a-644 to 45a-677, inclusive, or sections
345 45a-690 to 45a-705, inclusive, and not later than thirty days after
346 mailing of an order, denial or decree for any other matter in a court of
347 probate, appeal therefrom to the Superior Court. Such an appeal shall
348 be commenced by filing a complaint in the superior court in the
349 judicial district in which such court of probate is located, or, if the
350 court of probate is located in a probate district that is in more than one
351 judicial district, by filing a complaint in a superior court that is located
352 in a judicial district in which any portion of the probate district is
353 located, except that (1) an appeal under subsection (b) of section 12-
354 359, subsection (b) of section 12-367 or subsection (b) of section 12-395
355 shall be filed in the judicial district of Hartford, and (2) an appeal in a
356 matter concerning removal of a parent as guardian, termination of
357 parental rights or adoption shall be filed in any superior court for
358 juvenile matters having jurisdiction over matters arising in any town
359 within such probate district. The complaint shall state the reasons for
360 the appeal. A copy of the order, denial or decree appealed from shall
361 be attached to the complaint. Appeals from any decision rendered in
362 any case after a recording is made of the proceedings under section
363 17a-498, 17a-685, 45a-650, 51-72 or 51-73 shall be on the record and
364 shall not be a trial de novo.

365 Sec. 12. Subsection (a) of section 45a-186a of the general statutes is
366 repealed and the following is substituted in lieu thereof (*Effective*
367 *October 1, 2011*):

368 (a) In an appeal from an order, denial or decree of a court of probate

369 made after a hearing that is on the record pursuant to subsection (a) of
370 section 45a-186, as amended by this act, not later than thirty days after
371 service is made of [an] such appeal under section 45a-186, as amended
372 by this act, or within such further time as may be allowed by the
373 Superior Court, the Court of Probate shall transcribe any portion of the
374 recording of the proceedings that has not been transcribed. The
375 expense for such transcript shall be charged against the person who
376 filed the appeal, except that if the person who filed the appeal is
377 unable to pay such expense and files an affidavit with the court
378 demonstrating the inability to pay, the expense of the transcript shall
379 be paid by the Probate Court Administrator and paid from the Probate
380 Court Administration Fund.

381 Sec. 13. Section 45a-187 of the general statutes is repealed and the
382 following is substituted in lieu thereof (*Effective October 1, 2011*):

383 (a) An appeal [under section 45a-186] by persons of the age of
384 majority who are present or who have legal notice to be present, or
385 who have been given notice of their right to request a hearing or have
386 filed a written waiver of their right to a hearing, shall be taken within
387 [thirty days] the time provided in section 45a-186, as amended by this
388 act, except as otherwise provided in this section. If such persons have
389 no notice to be present and are not present, or have not been given
390 notice of their right to request a hearing, such appeal shall be taken
391 within twelve months, except for appeals by such persons from an
392 order of termination of parental rights, other than an order of
393 termination of parental rights based on consent, or a decree of
394 adoption, in which case appeal shall be taken within ninety days. An
395 appeal from an order of termination of parental rights based on
396 consent, which order is issued on or after October 1, 2004, shall be
397 taken within twenty days.

398 [(b) An appeal from any probate order for the payment of claims or
399 dividends on claims against any insolvent estate shall not be allowed
400 unless it is taken within thirty days after the making of such order.]

401 [(c)] (b) An order, denial or decree of a court of probate shall not be

402 invalid because of the disqualification of the judge unless an appeal
403 therefrom is taken within [thirty days] the time provided in section
404 45a-186, as amended by this act, this section and section 45a-188, as
405 amended by this act.

406 Sec. 14. Section 45a-188 of the general statutes is repealed and the
407 following is substituted in lieu thereof (*Effective October 1, 2011*):

408 (a) Except as provided in this section, all appeals by persons who
409 are minors at the time of the making of the order, denial or decree
410 appealed from shall be taken within twelve months after they arrive at
411 the age of majority.

412 (b) In the case of any minor who has a guardian or guardian ad
413 litem appointed and qualified by any court of probate in this state at
414 the time of the making of the order, denial or decree, [the time in
415 which] the minor or anyone on his behalf may appeal therefrom [shall
416 be one month from the date of such order, denial or decree if the
417 guardian or guardian ad litem has had legal notice, as provided for the
418 particular proceeding, of the time and place of the hearing on such
419 proceeding concerning which such order, denial or decree was made]
420 within the time provided in section 45a-186, as amended by this act, if
421 the guardian or guardian ad litem had legal notice of the time and
422 place of the hearing.

423 [(c) All appeals by persons not inhabitants of this state who were
424 not present at such time and did not have legal notice to be present
425 shall be taken within twelve months thereafter.]

426 [(d)] (c) Any judge or clerk of the Court of Probate or any fiduciary
427 may cause written notice of any order, denial or decree of the Court of
428 Probate to be given to any person of the age of majority, or to the
429 guardian or guardian ad litem of any minor who has not had legal
430 notice of the hearing on the proceeding at which the order, denial or
431 decree was passed and who may be aggrieved thereby. In any such
432 case the person, minor, guardian or guardian ad litem may appeal only
433 within [one month] the time provided in section 45a-186, as amended

434 by this act, after receiving such notice.

435 Sec. 15. Section 45a-113a of the general statutes is repealed and the
436 following is substituted in lieu thereof (*Effective from passage*):

437 Whenever a court determines that a refund is due an applicant,
438 petitioner, moving party or other person for any overpayment of costs,
439 fees, charges or expenses incurred under the provisions of sections
440 45a-106 to 45a-112, inclusive, as amended by this act, the Probate Court
441 Administrator shall, upon receipt of certification of such overpayment
442 by the court of probate that issued the invoice for such costs, fees,
443 charges or expenses, cause a refund of such overpayment to be issued
444 from the Probate Court Administration Fund.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2011</i>	45a-8a
Sec. 2	<i>July 1, 2011</i>	31-275(9)
Sec. 3	<i>October 1, 2011</i>	45a-109
Sec. 4	<i>July 1, 2011</i>	45a-273(a)
Sec. 5	<i>July 1, 2011</i>	45a-273(e)
Sec. 6	<i>July 1, 2011</i>	45a-274
Sec. 7	<i>July 1, 2011</i>	45a-597(b)
Sec. 8	<i>October 1, 2011</i>	45a-754
Sec. 9	<i>October 1, 2011</i>	45a-765
Sec. 10	<i>October 1, 2011</i>	New section
Sec. 11	<i>October 1, 2011</i>	45a-186(a)
Sec. 12	<i>October 1, 2011</i>	45a-186a(a)
Sec. 13	<i>October 1, 2011</i>	45a-187
Sec. 14	<i>October 1, 2011</i>	45a-188
Sec. 15	<i>from passage</i>	45a-113a

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Probate Court	PCAF - Potential Revenue Gain	20,000	20,000
Probate Court	PCAF - Potential Cost	15,000	15,000

Note: PCAF=Probate Court Administration Fund

Municipal Impact: None

Explanation

The bill makes various changes to the operations of the Probate Court system.

Section 2 provides workers' compensation coverage to Probate Court judges, and would result in a potential annual cost of \$15,000 to the Probate Court Administration Fund.

Section 4 establishes a \$20 daily charge for the use of a hand-held scanner to copy Probate Court records, which will result in a potential annual revenue gain of less than \$10,000 to the Probate Court Administration Fund.

Section 11 creates a fee schedule for making non-confidential Probate Court case data available to online subscribers, which will result in a potential annual revenue gain of less than \$10,000 to the Probate Court Administration Fund.

Section 16 clarifies current practice and will not result in a fiscal impact to the Probate Court.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of people seeking Probate Court records and handheld scanning devices.

OLR Bill Analysis**sHB 6438*****AN ACT CONCERNING PROBATE COURT OPERATIONS.*****SUMMARY:**

The bill makes several changes to the probate law. Specifically, it:

1. eliminates the requirement that the probate court administrator, within available resources, establish a regional children's probate court in the New Haven area and allows him to create seven, rather than six, such courts in regions he designates (§ 1);
2. extends worker's compensation coverage to probate court judges (§ 2);
3. sets a daily \$20 fee for copying probate records with a hand-held scanner, as that term is defined in the Freedom of Information Act (see BACKGROUND) (§ 3);
4. specifies that in determining the order of priority of claims against a decedent's estate, funeral expenses have first priority and expenses of settling the estate second priority (current law gives them equal priority) (§§ 4-7);
5. makes changes to confidentiality requirements for several children's probate matters (§§ 8, 9);
6. allows the probate court administrator to establish a fee schedule for anyone seeking access or information from an online probate court data processing system (§ 10); and
7. makes changes and clarifications regarding how much time parties have to appeal probate matters (§§ 11-14).

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2011 for the provisions on children's probate courts, worker's compensation, and the priority of claims; October 1, 2011 for those on hand-held scanner and data processing fees, record confidentiality, and appeal periods; and upon passage for a technical change.

§ 1 – REGIONAL CHILDREN'S PROBATE COURTS

Current law (1) requires the probate court administrator, within available resources, to establish a regional children's probate court in the area consisting of the Branford, East Haven, Hamden, Milford, New Haven, North Branford, North Haven, Orange, West Haven, and Woodbridge probate districts and (2) permits him to create six children's probate courts in regions he designates. The bill eliminates the requirement that he create such a district in the New Haven area, and allows him to create seven such courts.

By law, regional children's probate courts handle matters involving guardianship, termination of parental rights, adoption, paternity, emancipation, and voluntary commitment of children with serious mental health needs to the Department of Children and Families (DCF).

§§ 8, 9 – CONFIDENTIALITY AND DISCLOSURE OF RECORDS IN CHILDREN'S AND ADOPTION MATTERS

Under current law, the state must provide each probate court with an index and book to record specified information related to matters concerning termination of parental rights, removal of a parent as guardian, appointment of a statutory parent, and adoption. Probate courts must maintain locked files with all court filings regarding these cases in sealed envelopes, marked with only certain names and the general subject matter of the case. Anyone who discloses information in these indexes, books, and papers, except as specifically authorized by law, is subject to a fine of up to \$500, up to six months' imprisonment, or both.

The bill deletes these requirements and penalties, and makes a related conforming change (§ 9). It specifies that all records of cases related to these matters, as well as those of temporary guardianship and emancipation of a minor, are confidential and subject to being inspected by or disclosed to only the following people or entities, in addition to the parties or their counsel:

1. DCF;
2. a licensed child-placing agency involved in the case;
3. a state judge or court employee who needs access to the records to perform his or her duties;
4. the office of the Probate Court Administrator; and
5. courts of other states under the Uniform Child Custody Jurisdiction and Enforcement Act.

The law already specifies many circumstances in which these records may be disclosed to DCF and licensed child-placing agencies. (The records are already available for inspection by courts involved in the case.)

The bill specifies that it retains current law on access to adoption records.

§ 10 – ONLINE DATA PROCESSING SYSTEM

The bill allows the probate court administrator to set a fee schedule for anyone seeking online access to, or information (in any medium) stored in, a data processing system the administrator's office operates. The fees must be deposited in the probate court administration fund.

The bill specifies that the fee schedule may include reasonable charges for personal services, fringe benefits, supplies, and other expenses related to maintaining, improving, and providing these data processing services. These other expenses include the costs of program modifications, training expenses, central processor user time, and

equipment rental and maintenance.

§§ 11-14 – PROBATE APPEAL PERIODS

By law, appeals to the Superior Court from probate orders, denials, or decrees, unless the law provides otherwise, must be taken within (1) 45 days after the mailing of the order, denial, or decree if the matter concerns specified matters, such as many provisions regarding conservators or guardians (see BACKGROUND), or (2) 30 days for other matters.

The bill specifies that these 30- or 45-day appeal periods, unless the law provides otherwise, apply when the appealing party is an adult who (1) is present, (2) has legal notice to be present, (3) has been given notice of his or her right to request a hearing, or (4) has filed a written waiver of the right to a hearing. Current law provides that such people must appeal within 30 days, unless the law provides otherwise. By law, unchanged by the bill, adults have 12 months to appeal most probate matters if they did not have notice to be present and were not present, or were not given notice of their right to request a hearing (shorter time frames apply for appeals from adoption decrees and orders terminating parental rights).

The bill eliminates a 12-month appeal period for nonresidents who were not present and did not have legal notice to be present, and does not specify an appeal period for such people. Thus, the same appeal periods that apply for residents in this situation would apply to them.

The bill eliminates the current 30-day limit for appealing a probate order for the payment of claims or dividends on claims against an insolvent estate. The bill does not specify a time frame for such appeals. Thus, they would be subject to the law's default 30-day limit, unless another situation applies (for example, if the appealing party did not receive notice of the right to request a hearing).

The bill specifies that for minors who have a guardian or guardian ad litem appointed and qualified by a Connecticut probate court when a probate order, denial, or decree was made, the 30- or 45-day time

frames described above apply to appeals brought by the minor or someone on the minor's behalf if the guardian or guardian ad litem had legal notice of the time and place of the hearing. Current law provides a one-month time frame for bringing such appeals.

The law allows probate court judges, probate court clerks, and fiduciaries to send notice of probate court orders, denials, or decrees to adults or guardians or guardians ad litem of minors who did not have legal notice of the hearing on the related proceeding and who were affected by it. The bill allows appeals within the 30- or 45-day time frames described above, rather than one month, after such notice is received.

By law, except as provided above, someone who was a minor when a probate order, denial, or decree was issued can bring an appeal up to 12 months after he or she turns 18.

The bill provides that a probate court order, denial, or decree is not invalidated due to the judge's disqualification unless an appeal is taken within the various time frames described above, rather than just 30 days.

By law, when a probate appeal is based on a hearing that was on the record, the probate court must transcribe any portion that has not been transcribed within 30 days of service, unless the Superior Court allows additional time. The bill specifies that this requirement applies only to appeals subject to the 30- or 45-day time frames specified above.

BACKGROUND

Hand-held Scanners

The Freedom of Information Act gives members of the public the right to copy public records using a hand-held scanner, defined as a battery operated electronic scanning device that leaves no marks or impressions on the record and that does not unreasonably interfere with the operations of the agency that maintains the record. It allows public agencies to charge up to \$20 for each time someone copies records using such a scanner (CGS § 1-212(g)).

Probate Matters Subject to 45-Day Appeals Period

By law, appeals from probate orders, denials, or decrees for the following matters must be taken within 45 days after the mailing of the order, denial, or decree, unless the law provides otherwise:

1. appointing a guardian or conservator for a veteran or beneficiary of veterans' benefits;
2. compensation of a guardian or conservator of a social services beneficiary, veteran, or beneficiary of veterans' benefits;
3. investment of funds in insurance and annuity contracts by a conservator or guardian of the estate of a ward, conserved person, or incapable person;
4. payment by a guardian or conservator of administrative expenses of a deceased protected person;
5. many provisions regarding conservators, such as naming a conservator for future incapacity, application for and release from voluntary representation, appointment of involuntary representation, appointment of temporary conservators, duties of conservators, and termination of conservatorship;
6. appointing guardians of people with mental retardation, their powers and duties;
7. sterilization; and
8. a guardian's or conservator's petition on competency to vote (CGS § 45a-186(a)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 0 (04/05/2011)